

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 5604 OF 2018

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') to quash the order dated 07-03-2018 in Criminal M.P.No. 842 of 2018 in C.C.No. 1435 of 2014 on the file of the Court of XIV Additional Chief Metropolitan Magistrate, Hyderabad (for short, 'the Court below'), whereby the Court below dismissed the above miscellaneous petition filed by the petitioner under Section 70 (2) of Cr.P.C.

2. The Court below dismissed the abovementioned miscellaneous petition on the ground that the petitioner did not appear before it on the date of filing the petition. The main ground urged before this Court is that the petitioner is a Government employee and not in a position to secure any kind of leave to appear before the Court below and therefore requested to set aside the order by recalling the warrant issued against him.

3. No doubt, the petitioner is a Government employee but still he can secure any kind of leave either casual leave or earned leave and appear before the Court below and file an application under Section 70 (2) of Cr.P.C. If, for any reason, the petitioner is unable to appear before the Court below in connection with the above C.C., he can be represented by his counsel after obtaining leave of the Court below either under Rule 37 of Criminal Rules of Practice or by filing a petition under Section 205 of Cr.P.C. but he did not do so and remained absent. In those circumstances, the Court below has no option except to proceed in accordance with law by issuing N.B.W. to secure his presence to answer the questions to be put to him in the examination under Section 313 of Cr.P.C. Since the petitioner was absent on the date of filing the petition, I deem

it appropriate to direct the petitioner to appear before the Court below and file a petition under Section 70 (2) of Cr.P.C. after serving notice on the respondent and on filing such petition, the Court below is directed to dispose of it on the same day in accordance with law.

4. With the above direction, the criminal petition is disposed of. Pending miscellaneous petitions, if any, in this criminal petition shall stand closed in consequence.

Date: 16-07-2018.

JSK

M.SATYANARAYANA MURTHY, J.

